

MARTIN L. FINEMAN, California State Bar No. 104413
DAVIS WRIGHT TREMAINE LLP
505 Montgomery St., Suite 800
San Francisco, California 94111-6533
Telephone: (415) 276-6500
Facsimile: (415) 276-6599
E-mail: martinfineman@dwt.com

RAYMOND P. NIRO (*Admitted Pro Hac Vice*)
DEAN D. NIRO (*Admitted Pro Hac Vice*)
PATRICK F. SOLON (*Admitted Pro Hac Vice*)
RICHARD B. MEGLEY, JR. (*Admitted Pro Hac Vice*)
JOSEPH A. CULIG (*Admitted Pro Hac Vice*)
NIRO, HALLER & NIRO
181 W. Madison St., Suite 4600
Chicago, IL 60602-4515
Telephone: (312) 236-0733
Facsimile: (312) 236-3137
Email: rniro@nshn.com
Email: dniro@nshn.com
Email: solon@nshn.com
Email: megleyjr@nshn.com
Email: culig@nshn.com

Attorneys for Plaintiff
ADC TECHNOLOGY, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ADC TECHNOLOGY, INC.

Plaintiff,

v.

PALM, INC., and
HEWLETT-PACKARD COMPANY

Defendants.

Case No. 3:11-cv-02136-EMC

**JOINT STIPULATION AND [PROPOSED]
ORDER REGARDING CONTINUANCE
OF SEPTEMBER 19, 2013 CASE
MANAGEMENT CONFERENCE**

Civil L.R. 7-12

1 The parties to this action—plaintiff ADC Technology, Inc. (“ADC”) and defendants Palm,
 2 Inc. and Hewlett-Packard Co. (collectively, “Palm”)—respectfully submit this stipulation, requesting
 3 that the Court continue the Case Management Conference previously scheduled in this action for
 4 September 19, 2013 to a date in November 2013, or an alternative future date that is convenient to
 5 the Court.

6 Good cause exists for this requested continuance of the Case Management Conference, as set
 7 forth below:

- 8 ▪ This is a patent case in which the plaintiff, ADC, asserts three patents—namely, U.S.
 9 Patent Nos. 6,985,136 (the “136 patent”), 7,057,605 (the “605 patent”) and 7,567,361
 10 (the “361 patent”) (collectively, the “patents-in-suit”).
- 11 ▪ In mid-2011, pursuant to a third-party request, the PTO ordered reexamination of each of
 12 the three patents-in-suit.
- 13 ▪ In July 2011, defendant Palm filed a stipulated motion to stay this case pending final
 14 determination of the reexamination of the patents-in-suit by the PTO. (*See* Docket
 15 No. 68.) Plaintiff ADC stipulated to this stay motion. (*Id.*)
- 16 ▪ On July 25, 2011, the Court granted the stipulated stay motion and ordered that “[t]his
 17 action is stayed pending final determination of the reexamination of the patents-in-suit”
 18 by the PTO. (*See* Docket No. 70.) In its order, the Court instructed the parties to advise
 19 the Court when the PTO has issued a final determination on reexamination. (*Id.*) In
 20 addition, the Court set a case management conference for May 11, 2012, which was
 21 subsequently re-set for May 18, 2012. (*Id.*)
- 22 ▪ In May and September, 2012 and in January and May, 2013, defendant Palm and plaintiff
 23 ADC filed stipulations requesting continuance of the case management conference,
 24 noting that there has not yet been a final determination of the reexamination of all of the
 25 patents-in-suit and indicating agreement that a continued stay in this action was
 26 appropriate. (*See Docket Nos. 72, 74, 77.*) The Court granted the stipulated requests and
 27

1 re-set the case management conference, which is currently set for September 19, 2013.
2 (*See Docket No. 73, 75, 78, 81.*)

- 3 ▪ To date, there has not yet been a final determination of the reexamination of all of the
4 patents-in-suit. Although the PTO has issued a reexamination certificate for the '136
5 patent in December 2011, the reexamination proceedings that the PTO initiated in mid-
6 2011 on the '605 and '361 patents remain ongoing. The PTO had initiated additional
7 reexamination proceedings on the '136, '361, and '605 patents in July, November, and
8 December 2012, respectively. However, ADC represents that all of those additional
9 reexamination proceedings are in the process of being dismissed and, upon dismissal,
10 there will be no reexaminations proceedings pending with respect to the '136 patent.
- 11 ▪ Recently, ADC and Palm have engaged in more serious discussions in order to try and
12 resolve the dispute. The parties believe they need additional time to fully exhaust
13 reasonable efforts to settle the case.
- 14 ▪ The parties presently agree that the Case Management Conference should be continued to
15 a date in November 2013, or an alternative future date that is convenient to the Court in
16 view of the pending reexaminations on the '605 and '361 patents and to allow the parties
17 some brief additional time to try and settle the case without burdening the Court. The
18 parties further agree that if any of the reexaminations are completed before the
19 rescheduled Case Management Conference, either party may file a motion to have the
20 stay lifted, and the other party may oppose the motion.

21 In view of the foregoing, the parties respectfully request that the Case Management
22 Conference previously set for September 19, 2013, be continued to a date in November 2013, or an
23 alternative future date that is convenient to the Court.

1 Dated: September 10, 2013

/s/ Nathan Walker (with permission)

2 Mark D. Flanagan (SBN 130303)
mark.flanagan@wilmerhale.com
3 Nathan L. Walker (SBN 206128)
nathan.walker @wilmerhale.com
4 Christine Duh (SBN 228544)
christine.duh@wilmerhale.com
5 WILMER CUTLER PICKERING HALE AND
DORR LLP
6 950 Page Mill Road
Palo Alto, California 94304
7 Telephone: (650) 858-6000
Facsimile: (650) 858-6101

8 Attorneys for Defendants
9 PALM, INC. and
HEWLETT-PACKARD COMPANY

10
11
12 Dated: September 10, 2013

/s/ Richard B. Megley, Jr.

13 Raymond P. Niro (*pro hac vice*)
Dean D. Niro (*pro hac vice*)
14 Patrick F. Solon (*pro hac vice*)
Richard B. Megley, Jr. (*pro hac vice*)
15 Joseph A. Culig (*pro hac vice*)
NIRO, HALLER & NIRO
16 181 West Madison, Suite 4600
Chicago, Illinois 60602
17 Telephone: (312) 236-0733
Facsimile: (312) 236-3137

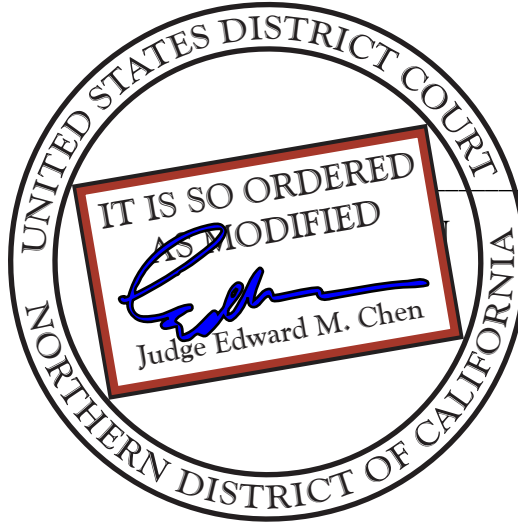
18 Martin L. Fineman, (SBN 104413)
DAVIS WRIGHT TREMAINE LLP
19 505 Montgomery St., Suite 800
San Francisco, California 94111-6533
20 Telephone: (415) 276-6500
Facsimile: (415) 276-6599

21 ATTORNEYS for Plaintiff
22 ADC TECHNOLOGY, INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

The Case Management Conference previously set for September 19, 2013 at 9:00 a.m. is
December 5, 2013
hereby continued to November __, 2013 at 9:00 a.m., in Courtroom 5, 17th Floor, 450 Golden Gate
Avenue, San Francisco, California.

Dated: September __, 2013



SIGNATURE ATTESTATION

I, Richard B. Megley, Jr., hereby attest pursuant to General Order 45.X.B. that concurrence in the electronic filing of this document has been obtained from the other signatories. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on September 10, 2013, in Chicago, Illinois.

By: /s/Richard B. Megley, Jr.
Richard B. Megley, Jr.